

To: INFRASTRUCTURE, LAND AND ENVIRONMENT POLICY BOARD

On: 23 JANUARY 2019

Report by: DIRECTOR OF ENVIRONMENT & INFRASTRUCTURE

Heading: VEGETATION REMOVAL FROM PRIVATE LAND

1. Summary

- 1.1 Under the Roads (Scotland) Act 1984 the Council as the Roads Authority has powers to serve notice on land owners and/or land occupiers where vegetation overhangs and encroaches the road causing danger, obstruction or interference to the passage of vehicles and pedestrians.
 - 1.2 This report seeks to introduce a policy that enables the Council to act in a consistent manner with its statutory duties associated with part 8 of Roads (Scotland) Act 1984, to address vegetation that is overhanging and encroaching on the road and to recover costs incurred in undertaking duties under the Act.
 - 1.3 The Council has established good relationships with many landowners to ensure compliance with the Act, encouraging them to cut back vegetation that encroaches or overhangs the road or footpaths where it interferes or obstructs road users. On occasions where the land owner does not cut back vegetation, the Council has intervened to undertake the works to remove the obstruction and encroaching vegetation.
 - 1.4 Renfrewshire Council has never sought to recover costs from the land owners in accordance with the legislation. This report sets out a policy that will enable the Council to recover costs from land owners who do not undertake the works themselves, subsequent to the Council undertaking the works on their behalf.
-

2. Recommendations

It is recommended that the Infrastructure, Land and Environment Policy Board:

- 2.1 Approves the Policy set out at Appendix 1 of this report, to enable the recovery of costs from land owners where vegetation is endangering, obstructing or interfering with the passage of vehicles or pedestrians.

3. Background

- 3.1 The Roads (Scotland) Act 1984, Part 8 section 91 sets out the statutory process for Councils, as the Roads Authority, to require land owners and/or land occupiers to cut back/remove vegetation. Section 141 contains provisions for the Council to step in and do the works, and sections 140 and 141 allow the Council to recover expenses where landowners and/or land occupiers fail to ensure that vehicles and pedestrians can go about their business free from obstruction and risks involved in using the road network.
 - 3.2 Although these powers have been available since the Act was introduced, (with ongoing revisions thereafter to this Act), Renfrewshire Council has not recharged landowners for works the Council undertakes on their behalf if they fail to comply.
 - 3.3 The process Renfrewshire Council shall follow where vegetation is encroaching and overhanging a road or footway causing an endangerment, obstruction or interference is as follows:
 - 1. The issue of an initial letter informing landowners and/or land occupiers of the issue and concern. This is reviewed 10 days later.
 - 2. If no action is taken, landowners and/or land occupiers are issued with a formal letter seeking compliance within 28 days.
 - 3. If action is still not taken, a further letter is issued detailing the cost of the Council undertaking the works if non-compliance continues for a further 7 days.
 - 3.4 In circumstances where it is deemed by the Council that there is an imminent danger the Council is able to carry out the works and recover expenses reasonably incurred from the land owner without serving notice.
 - 3.5 This policy will ensure the Council takes prompt and consistent action to ensure compliance in a measured and appropriate manner, ensuring the adopted road and footway network is managed effectively for the safety of all users.
-

Implications of the Report

1. **Financial** – The issue and recovery of costs may generate a very small level of income to the Council. Administration and recovery of costs will have to be included in line with the Roads (Scotland) Act 1984, Part 8 section 9. Detailed procedures and process to be agreed and implemented with the Council Finance Department
2. **HR & Organisational Development** – Business Support to provide required administrative support in line with this statutory duty in the Act
3. **Community Planning – None**
4. **Legal** – Legal consideration of policy and required input to ensure all correspondence and debt recovery actions are in line with the Act and ensure full legal compliance with the Roads (Scotland) Act 1984.
5. **Property/Assets** - None
6. **Information Technology** - None
7. **Equality & Human Rights** - The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website
8. **Health & Safety** – Improve safety of road network for pedestrians, cyclists and vehicle users.
9. **Procurement** – None
10. **Risk** – None
11. **Privacy Impact** – None
12. **Cosla Policy Position** – None

List of Background Papers - none

Author: Ken Gray, StreetScene Manager

Roads (Scotland) Act, 1984 – Vegetation Removal from Private Land

Appendix 1

